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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/692,371

10/23/2003

Paul C. David

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EXAMINER

BARQADLE, YASIN M

ART UNIT

PAPER NUMBER

2153

MAIL DATE

DELIVERY MODE

09/02/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/692,371	<b>Applicant(s)</b> DAVID ET AL.	
	<b>Examiner</b> YASIN M. BARQADLE	<b>Art Unit</b> 2153	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 October 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 6-15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 16-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>07/20/2004</u> .  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

- Claims 1-21 are presented for examination.
- Claims 6-15 are restricted.
- Claims 1-5 and 16-21 are examined.

### ***Election/Restrictions***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-5 and 16-21 drawn to a method a data structure comprising fields having packet type, resource and command type; classified in class 709, subclass 231.
- II. Claims 6-15 drawn to a data structure comprising fields having packet type, resource and command type, classified in class 707 subclass 104.1

During a telephone conversation with Mr. Stier, Daniel Reg. No. (50,640) on June 3, 2006 a provisional election was made without traverse to prosecute the invention of group I, claims 1-5 and 16-21. Affirmation of this election must be made by applicant in replying to this Office action. Claim 1-15 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

The inventions are distinct, each from the other because of the following

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reasons:

1. Inventions I and II are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different designs, modes of operation, and effects (MPEP § 802.01 and § 806.06). In the instant case, inventions of group II has separate utility such as a data structure comprising fields having packet type, resource and command type, which is not required with the method for a data structure comprising fields having packet type, resource and command type of group I and vice versa.
2. Because the inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
3. Because the inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.
4. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143)

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no

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longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

### ***Information Disclosure Statement***

The information disclosure statement filed July 20, 2004 fails to comply with 37 CFR 1.98(a)(1), which requires the following: (1) a list of all patents, publications, applications, or other information submitted for consideration by the Office; (2) U.S. patents and U.S. patent application publications listed in a section separately from citations of other documents; (3) the application number of the application in which the information disclosure statement is being submitted on each page of the list; (4) a column that provides a blank space next to each document to be considered, for the examiner's initials; and (5) a heading that clearly indicates that the list is an information disclosure statement. The information disclosure statement has been placed in the application file, but the information referred to therein has not been considered.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-5 and 16-21 are rejected under 35 U.S.C. 102(e) as being anticipated

Claims 1-5 and 16-21 are rejected under 35 U.S.C. 102(e) as being anticipated by anticipated by David et al US Patent No. (7088374), hereinafter “David”.

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention “by another,” or by an appropriate showing under 37 CFR 1.131.

As per claim 1, David teaches a method to render a composition on a device (abstract) comprising the steps of:

sending a create composition node packet for creating a composition (col. 11, lines 7-17); sending at least one create resources

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packet to create resources for rendering the composition (col. 16, lines 31-47); and sending at least one render update packet to create the composition (col. 15, lines 61 to col. 16 line 4 and col. 16, lines 31-47).

As per claim 2, David teaches the method of claim 1 further comprising the step of sending a create render data resource packet to create a render data resource (col. 16, lines 31-47 and col. 17, lines 21).

As per claim 3, David teaches the method of claim 1 further comprising the step of sending a batch open packet to open a batch process (col. 20, lines 14-42).

As per claim 4, David teaches the method of claim 3 further comprising the steps of: sending a plurality of create resource packets, sending at least one resource update packets and sending a close/commit batch packet (col. 20, lines 14-42 and col. 21, lines 10-32).

As per claim 5, David teaches the method of claim 1 further comprising the step of sending a release command to release a resource (FIG. 14 see connect and disconnect issued command from the compositor (col. 15 lines 6-23 and col. 21, lines 10-32)).

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As per claim 16, David teaches a method to render a composition on a device comprising (abstract) the steps of:

creating a composition node in response to receiving a create composition node packet (col. 15, lines 24-47 and col. 16, lines 31-47); creating at least one resource for rendering the composition in response to receiving at least one create resources packet (col. 15, lines 40 to col. 16, line 9); and creating the composition in response to receiving at least one render update packet (col. 15, lines 40 to col. 16, line 9);.

As per claim 17, David teaches the method of claim 16 further comprising the step of creating a render data resource in response to receiving a create render data resource packet (col. 16, lines 31-47 and col. 17, lines 21).

As per claim 18, David teaches the method of claim 16 further comprising the step of opening a batch process in response to receiving a batch open packet (col. 20, lines 14-42).

As per claim 19, David teaches the method of claim 18 further comprising the step of processing one of at least one create resource packet and at least one resource update packet in response to receiving a close/commit batch packet (col. 20, lines 14-42 and col. 21, lines 10-32).



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As per claim 20, David teaches the method of claim 16 further comprising the step of releasing a resource in response to receiving a release command (col. 20, lines 14-42 and col. 21, lines 10-32).

As per claim 21, David teaches the method of claim 16 further comprising the step of sending a notification in response to receiving a command packet (col. 20, lines 14-42 and col. 21, lines 10-32).

### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to YASIN M. BARQADLE whose telephone number is (571)272-3947. The examiner can normally be reached on 9:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Burgess can be reached on 571-272-3949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Yasin M Barqadle/  
Primary Examiner, Art Unit 2153